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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 173/2024**

NIKHIL SHARMA

..... Petitioner

Through: Mr. Pradeep Kumar Arya, Mr. Aditya
Kumar Yadav, Mr. Gaurav
Chaudhary, Mr. Varun Jawla, Mr.
Arpit Bamal and Mr. Vaibhav
Chaudhry, Advocates.

versus

STATE(GOVT OF NCT OF DELHI)

..... Respondent

Through: Mr. Hemant Mehla, APP for the State
with SI Ekta, P.S. Bindapur.
Ms. Aleena, Mr. Kunal Karan, Ms.
Kanupriya, Mr. Jatin Solanki, Mr.
Jatin Chaudhary and Md. Salim,
Advocates for Complainant.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

09.05.2024

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1. The present application under Section 438 of the Cr.P.C. seeks anticipatory bail in case FIR No.0791/2023, under Sections 376/506 of the IPC, registered at Police Station Binda Pur.
2. The aforesaid FIR was registered on the statement of the complainant wherein she alleged that she had met the applicant on a bus while returning from Vaishno Devi and numbers were exchanged between them. It is alleged that gradually they started talking and meeting each other. It is alleged that in June 2020, when the complainant was staying at her rental



premises, the applicant came to her place and on a promise to marry her, had forceable physical relations with her. It is further alleged that from March 2021 she lived with the present applicant till August 2023. It is alleged that thereafter the present applicant refused to marry her and started threatening her.

3. On the basis of the aforesaid statement, the present FIR was registered. During the investigation, the statement of complainant under Section 164 of the Cr.P.C. was recorded. After completion of investigation, the chargesheet has been filed before the Court of competent jurisdiction.

4. Learned counsel appearing on behalf of the applicant submitted that the relationship was consensual in nature and the allegations with respect to promise of marriage are false. It is also pointed out that the complainant had also previously registered an FIR bearing No.619/2019, under Section 376 of the IPC, at Police Station Binda Pur wherein similar allegations were made in respect to the accused therein.

5. It is further submitted that in pursuance of the interim protection granted by this Court *vide* order dated 31.01.2024, the applicant had joined investigation as and when directed by the Investigating Officer. It is also pointed out that the charge sheet in the present case has been filed before the Court of competent jurisdiction.

6. *Per contra*, learned APP for the State, assisted by learned counsel for the complainant, submitted that the relationship between the present applicant and the complainant was on account of the false promise of marriage and despite living together for a considerable amount of time, the present applicant married someone else and on account of the same, it is a case of fraud being played on the complainant.



7. On a pointed query, the Investigating Officer confirmed the fact that a previous FIR has been registered at the instance of the present complainant.

8. Heard learned counsel for the parties and perused the records.

9. It is not in dispute that the complainant was living together with the present applicant for a considerable amount of time. The question whether the consent of the present complainant was obtained on a false promise of marriage is a matter of trial which will be determined by the learned Trial Court after recording the evidence. It has come on record that in pursuance of the protection granted by this Court, the applicant has joined the investigation as and when directed by the Investigating Officer and has not misused the liberty to him. Investigation in the present FIR is complete and chargesheet stands filed before the Court of competent jurisdiction.

10. In totality of the facts and circumstances of the case, the present application is allowed. In the event of arrest, the applicant is directed to be released on bail on his furnishing personal bond of Rs. 50,000/- with one surety of like amount to the satisfaction of the learned Trial Court/Link Court/Investigating Officer/Arresting Officer, further subject to following conditions:

- i. The applicant shall not leave the country without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.



- iv. The applicant shall join investigation as and when called by the Investigating Officer concerned.
- v. The applicant will not try to influence the witnesses in any manner.
- vi. The applicant shall provide his mobile number to the Investigating Officer and intimate about any change.
- 11. The application is allowed and disposed of accordingly.
- 12. Pending applications, if any, also stand disposed of.
- 13. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present application.
- 14. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MAY 9, 2024/MR

Click here to check corrigendum, if any